

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

REGINAL L. JOHNSON,)	
)	CASE NO. 1:17CV780
Petitioner,)	
)	
v.)	JUDGE BENITA Y. PEARSON
)	
WARDEN KIMBERLY CLIPPER,)	
)	
)	<u>MEMORANDUM OF OPINION AND</u>
Respondent.)	<u>ORDER</u> [Resolving ECF No. 7]

Pro Se Petitioner Reginal L. Johnson, an Ohio prisoner at the Lorain Correctional Institution, filed a Petition for a Writ of Habeas Corpus pursuant to [28 U.S.C. § 2254](#) ([ECF No. 1](#)), alleging two (2) grounds for relief which challenge the constitutional sufficiency of his convictions and sentences in Lorain County, Ohio Court of Common Pleas Case No. [13CR086507](#). The case was referred to Magistrate Judge Thomas M. Parker for a Report and Recommendation pursuant to [28 U.S.C. § 636](#) and [Local Rule 72.2.\(b\)\(2\)](#). The magistrate judge issued a Report recommending that the Court dismiss Ground One of the petition as unexhausted and permit Johnson to file an amended petition omitting the unexhausted claim within thirty days. ([ECF No. 9](#)).

The Federal Magistrate Act requires a district court to conduct a *de novo* review only of those portions of a Report and Recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a Report and Recommendation within fourteen days of service. *Id.*; [Fed. R. Civ. P. 72\(b\)\(2\)](#). Failure to object within this time waives a

(1:17CV780)

party's right to appeal the district court's judgment. [*Thomas v. Arn*, 474 U.S. 140, 145 \(1985\)](#); [*United States v. Walters*, 638 F.2d 947, 949-50 \(6th Cir. 1981\)](#). Absent objection, a district court may adopt a magistrate judge's report without review. See [*Thomas*, 474 U.S. at 149](#).

In the instant case, neither party has filed objections to the Report and Recommendation, nor have they requested an extension of time to do so. The Petitioner, did however, move the Court to permit him to amend his petition by removing "his Ground One claim." [ECF No. 10](#). Based on this filing, it appears, that Petitioner agrees with the recommendation of the magistrate judge. The undersigned does as well.

Therefore, the Court finds that the Report and Recommendation is supported by the record, and agrees with the recommendation to dismiss Ground One of the instant petition as unexhausted for the reasons stated therein and hereby adopted. In the alternative, Petitioner's motion for leave to amend his petition is granted in as far as it seeks to remove his first claim for relief, Ground One. Because any further review by this Court would be a duplicative and inefficient use of the Court's limited resources, the Court adopts the Report and Recommendation.¹ [ECF No. 9](#). Respondent's Motion to Dismiss ([ECF No. 7](#)) as to Ground One of the Petition is granted, or, in the alternative, Petitioner's motion to amend ([ECF No. 10](#)) so as to remove Ground One is granted. In either case, only Ground Two remains before the Court.

¹ [*Thomas v. Arn*, 728 F.2d 813 \(6th Cir. 1984\), *aff'd*, 474 U.S. 140 \(1985\)](#); [*Howard v. Secretary of Health and Human Services*, 932 F.2d 505 \(6th Cir. 1991\)](#); [*Walters*, 638 F.2d at 949-50](#).

(1:17CV780)

IT IS SO ORDERED.

November 21, 2017
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge